

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

STRITTMATTER *et al.*

Appl. No.: 10/553,669

§ 371 Date: August 9, 2006

For: **Nogo-Receptor Antagonists for the
Treatment of Conditions Involving
Amyloid Plaques**

Confirmation No.: 4039

Art Unit: 1654

Examiner: Ha, Julie

Atty. Docket: 2159.0470001/EJH/SAC

Reply to Requirement For Election of Species

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated May 10, 2007, Applicants hereby provisionally elect SEQ ID NO: 3. Claims 42-47, 49-56 and 58-61 read on such species. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made **with** traverse.

The Examiner alleges that each peptide sequence is patentably independent and distinct because of different amino acid content which will lead to different structures.

Applicant respectfully disagrees. M.P.E.P. § 803.02 states

[I]t is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. . . Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature essential to that utility.

(Citations omitted). In the present invention, each peptide sequence and variants thereof function similarly and contain specific features in their sequences required for that function. The specification discloses features pertaining to similarity in function on page 6, line 23 through page 7, line 7. The specification also discloses features pertaining to similarity in

structure on page 7, line 17 through page 8, line 9. Therefore, the species of claims 48, 49, 57 and 58 share both a common utility and substantial structural features essential to that utility, and thus have unity of invention.

In addition, Applicants assert that searching and examining these species together would not be a serious burden on the Examiner as all encompass peptides or variants thereof and references relevant for each would be found in the same search. Moreover, Applicants note that the application was considered to have unity of invention during the international phase. Since a search and examination has already been carried out during the international phase, it would place absolutely no burden on the examiner to examine all of the present claims.

Finally, in accordance with 37 C.F.R. § 1.141(a), Applicants also reserve the right to claim additional species, and/or to have additional species searched and/or examined, in the event that a generic claim is found to be allowable.

It is believed that extensions of time are not required, beyond those that may otherwise be provided for in accompanying documents. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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